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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/081,995	02/21/2002	Mindaugas F. Dautartas	23091/16 (ACT-179)	1731
26086	7590	01/12/2004	EXAMINER	
HALEOS, INC. 3150 STATE STREET BLACKSBURG, VA 24060			WOOD, KEVIN S	
			ART UNIT	PAPER NUMBER
			2874	

DATE MAILED: 01/12/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.		Applicant(s)	
	10/081,995		DAUTARTAS, MINDAUGAS F.	
	Examiner		Art Unit	
	Kevin S Wood		2874	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 October 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 and 14-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-10 and 14-21 is/are allowed.
- 6) ☒ Claim(s) 11 and 22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 February 2002 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>1003</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. This action is responsive to the applicant's amendment filed on 27 October 2003. Claims 1, 11, 14, and 16 are amended. New claim 22 has been added. Claims 12 and 13 are canceled. Claim 10 was found to be allowable in the previous action. Claims 1-11 and 14-22 are now pending in the application.
2. Based on the applicant's amendment the objections to the drawings have been withdrawn and the previous rejection under 35 U.S.C. 112, second paragraph, has been withdrawn.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
4. Claim 22 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 22 recites the limitation "the diffraction filter" in fifth line of the claim. There is insufficient antecedent basis for this limitation in the claim.

Response to Arguments

5. Applicant's arguments, filed on 27 October 2003, with respect to claims 1-10 and 14-21 have been fully considered and are persuasive. The rejections/objections of claims 1-10 and 14-21 have been withdrawn.

6. Applicant's arguments filed on 27 October 2003 with respect to claim 11 and claim 22 have been fully considered but they are not persuasive. The examiner has thoroughly reviewed the applicant's arguments but firmly believes that U.S. Patent No. 5,208,882 to Strasser et al. reasonably and properly meets the claimed limitations.

For claim 11, the applicant argues that Strasser et al. does not disclose a diffraction grating disposed at the non-vertically tapered portion of the optical waveguide. The examiner respectfully disagrees with this interpretation of the Strasser et al reference. Strasser et al. reference clearly discloses a tapered waveguide where one diffraction grating is located at the taper of the optical waveguide and another diffraction grating is located at an untapered portion of the optical waveguide. See Fig. 17. Based on this the examiner believes that the Strasser et al. anticipates all the limitations of claim 11, therefore claim 11 remains rejected under 35 U.S.C. 102.

For claim 11, the applicant argues that Strasser et al. does not disclose a diffraction grating disposed on the tapered surface the optical waveguide. The examiner respectfully disagrees with this interpretation of the Strasser et al reference. Strasser et al. reference clearly discloses a tapered waveguide where a diffraction grating is located along a surface of the tapered portion of an optical waveguide. The applicant seems to be arguing that the bottom surface of the waveguide doesn't provide a vertical taper to the waveguide. The examiner respectfully disagrees. The examiner believes it to be apparent that the both the top and bottom surface of the waveguide are used to form the vertical taper of the optical waveguide. See Fig. 1-5. Based on this

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the examiner believes that the Strasser et al. anticipates all the limitations of claim 22, therefore claim 22 is rejected under 35 U.S.C. 102.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 11 and 22 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 5,208,882 to Strasser et al.

Referring to claims 11, Strasser et al. discloses all the limitations of the claimed invention. Strasser et al. discloses an optical device comprising : a vertically tapered waveguide; a diffraction grating disposed at the non-vertically tapered portion, wherein the waveguide and the diffraction grating are made from a monolithic optical material, and wherein the monolithic optical material is over a substrate common to both the waveguide and the diffraction grating. See Fig. 17.

Referring to claims 22, Strasser et al. discloses all the limitations of the claimed invention. Strasser et al. discloses an optical device comprising: a vertically tapered waveguide (14a); a diffraction grating (12a) disposed on the surface of the tapered portion of the optical waveguide, wherein the waveguide and the diffraction grating are made from a monolithic optical material, and wherein the monolithic optical material is

over a substrate (10a) common to both the waveguide and the diffraction grating. See Fig. 1-5.

Allowable Subject Matter

9. Claims 1-10 and 14-21 are allowed.

Conclusion

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin S Wood whose telephone number is (571) 272-2364. The examiner can normally be reached on Monday-Thursday (7am - 5:30 pm).

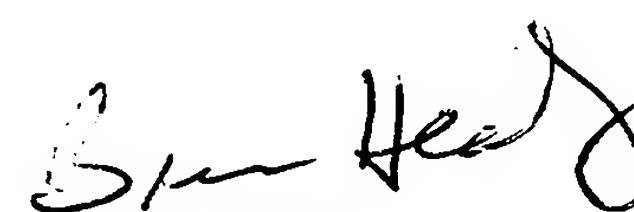
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rodney B Bovernick can be reached on (703) 308-4819. The fax phone

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number for the organization where this application or proceeding is assigned is (703)
872-9306.

Any inquiry of a general nature or relating to the status of this application or
proceeding should be directed to the receptionist whose telephone number is (703)307-
0956.

KSW



Brian Healy
Primary Examiner